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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,377	03/18/2005	Timothy Michael Cusack	102792-033(10997P3)	4717

27389 7590 01/10/2008  
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EXAMINER
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DELCOTTO, GREGORY R

ART UNIT	PAPER NUMBER
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1796

MAIL DATE	DELIVERY MODE
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01/10/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/524,377

Applicant(s)

CUSACK ET AL.

Examiner

Gregory R. Del Cotto

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-19, 21, 23-25, 27, 29, 31, 32, 34, 37-39 and 158-166 is/are pending in the application.
- 4a) Of the above claim(s) 5-14, 17-19, 21, 23, 24, 165 and 166 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 15, 16, 25, 27, 29, 31, 32, 34, 37-39, and 158-164 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 2/11/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. Claims 1-3, 5-19, 21, 23-25, 27, 29, 31, 32, 34, 37-39, and 158-166 are pending. Claims 4, 20, 26, 28, 30, 33, 35, 36, and 40-157 have been canceled. Applicant's arguments and amendments filed 10/22/07 and 2/11/05 have been entered.

Applicant's election of Group I, claims 1-3, 5-19, 21, 23-25, 27, 29, 31, 32, 34, 37-39, and 158-164 and species (6) (vinyl pyrrolidone/acrylic acid (and its esters) or methacrylic acid (and its esters) copolymer in the reply filed on 10/22/07 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 5-14, 17-19, 21, 23, 24, 165, and 166 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 10/22/07.

Note that, in Applicant's response filed on 10/22/07 in which he points out the elected species as the species corresponding to species "(6)" of claim 1 and the appropriate corresponding claims such as claims 15, 16, etc., Applicant further goes on to describe the polymer of "species 6" wherein the description does not appear to be accurate. The elected species (6) corresponds to a copolymer of vinyl pyrrolidone/acrylic acid (and its esters) or methacrylic acid (and its esters) while Applicant appears to describe the polymer of species (1) which is separate and distinct from the polymer of species (6). This appears to be an error and for purposes of

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examination, the polymer of species (6) corresponding to claims 15, 16, etc., as elected by Applicant in the response filed 10/22/07, has been treated as the elected species.

***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000.

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Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

***Claim Rejections - 35 USC § 103***

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1, 2, 15, 16, 25, 27, 29, 31, 32, 37-39, and 158-164 are rejected under 35 U.S.C. 102(b) as being anticipated by WO00/27271.

'271 teaches cleaning compositions, pads, wipes, and implements which provide effective cleaning of hard surfaces. See Abstract. The hard surface cleaning compositions contain from about 0.001% to about 0.5% by weight of a surfactant such

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as alkyl sulfonates, optionally, a hydrophilic polymer in an amount of less than about 0.5% by weight, optionally, an organic solvent, optionally, a mono or polycarboxylic acid in amounts from 0.01% to 1% by weight, optionally, a buffer, etc. See page 3, line 7 to page 4, line 10. Suitable polymers include poly(vinylpyrrolidone/acrylic acid" sold under the tradename Accumer, etc. See page 19, lines 15-30. Suitable acids include acetic acid, glycolic acid, tartaric acid, citric acid, succinic acid, etc. See page 21, lines 15-30. Specifically, '271 teaches compositions containing 0.01% alkyl sulfonate, 0.05% acetic acid, solvent, water, etc. See page 126, line 20 to page 127, line 10. '271 discloses the claimed invention with sufficient specificity to constitute anticipation.

Accordingly, the teachings of '271 anticipate the material limitations of the instant claims.

Claims 3 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO00/27271.

'271 are relied upon as set forth above. However, '271 does not teach, with sufficient specificity, a composition containing a specific acid or specific ratio of components in addition to the other requisite components of the composition as recited by the instant claims.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to formulate a composition containing a specific acid or specific ratio of components in addition to the other requisite components of the composition as recited by the instant claims, with a reasonable expectation of success, because the broad teachings of '271 suggest composition containing a specific acid or specific ratio

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of components in addition to the other requisite components of the composition as recited by the instant claims.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Remaining references cited but not relied upon are considered to be cumulative to or less pertinent than those relied upon or discussed above.

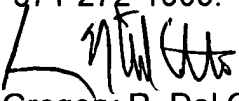
Applicant is reminded that any evidence to be presented in accordance with 37 CFR 1.131 or 1.132 should be submitted before final rejection in order to be considered timely.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory R. Del Cotto whose telephone number is (571) 272-1312. The examiner can normally be reached on Mon. thru Fri. from 8:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Gregory R. Del Cotto  
Primary Examiner  
Art Unit 1796

GRD  
January 7, 2008